IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

Bail Appl..No. 7199 of 2007()

CRIME NO.167/07 OF THUMBA POLICE STATION

: PETITIONER/2ND ACCUSED

JOSHY.N.N., NELLIKKUNNEL,
VENAMTTOM, VANNAPPURAM PO.,
IDUKKI DIST.

BY ADV. SRI.BIJU BALAKRISHNAN

RESPONDENTS:

THE SUB INSPECTOR OF POLICE,
THUMBA POLICE STATION, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SHRI JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7199 OF 2007

Dated this the 28th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner is the 2nd accused in a crime registered for offences punishable, inter alia, under section 364A IPC. The crime was initially registered in the caption 'woman missing' and later on allegations under section 364A IPC has been included.

2. I have adverted to the facts in detail while disposing of an application for regular bail filed by a co-accused as per order dated 13.9.07 in B.A.5506/07. This order must be read in continuation of the said order and I am not, hence, adverting to the facts in any greater detail in this order.

3. The soul of the allegations against the petitioner is that he in collusion with the other accused in the case had, using his mobile phone, demanded ransom for release of the woman, who was abducted. That mobile phone belongs to the brother of the petitioner.

4. The learned counsel for the petitioner submits that the petitioner is innocent. The petitioner's telephone was used by the petitioner only to convey the information which the other accused

wanted him to convey to the relatives of the allegedly abducted woman. He has no role in abducting the woman or in making the demand for ransom. The petitioner may, in these circumstances, be granted anticipatory bail, it is prayed.

5. The learned Public Prosecutor opposes the application. I am satisfied that there are no features in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. I agree with the learned Public Prosecutor, that this is a fit case where the petitioner must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

6. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

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